

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.782 of 2019

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Ajay Kumar Singh Son of Uday Singh Resident of Village/Mohalla-Jalalpur,
P.S.-Chhapra Muffasil, District-Saran.

... .. Petitioner/s

Versus

1. The State of Bihar the Secretary Food and Consumer Protection, Department Bihar, Patna.
2. The Secretary, Food and Consumer Protection department, Government of Bihar, Patna.
3. The Director, Food and Civil Supplies, Food and Consumer Protection Department, Govt. of Bihar, Patna.
4. The Commissioner, Saran Division, Chhapra,
5. The Collector Cum-District-Magistrate, Saran, Chhapra.
6. The Chairman, District Level Selection Committee, Chhapra, Saran.
7. The Sub-Divisional Officer, Sadar, Chhapra.
8. The District Supply Officer, Chhapra, Saran.
9. The Block Supply Officer, Sadar, Chhapra, Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nawal Kishore Singh
For the Respondent/s : Mr. S. Raza Ahmad

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

2 23-01-2024 Heard the learned counsel for the parties.

2. The present writ petition has been filed for the following reliefs:-

“i. For issuance of writ of Certiorari thereby quashing and setting aside the ordet as Contained in Memo no.2027 dtd. 11.11.17 issued under the seal and Signature of Respondent no.7 whereby and whereunder he has rejected the petitioner's application for grant of PDS Licence on Compassionate ground being the adopted Son of late Suresh Kr.Singh Holding PDS Licence No. 48/2016 at Gram



Panchayat Jalalpur Frakhand Sad ar who died on 16.3.2017.

ii). For further issuance of writ of Certiorari thereby quashing and setting aside the order dated 6.7.2016 passed in Supply Appeal Case No. 74/2017 issued under the Seal and Signature of Respondent no.5 whereby and whereunder the said respondent has refused to enterfare with the order of the Respon- dent no.7 and has dismissed the petitioner appeal in perfunctory manner.

iii). For further issuance of writ Certiorari thereby quashing and setting aside the order dtd. 26.10.18 passed i-n Supply Revision No.165 /2018 under the seal and Signature of the Respondent no.4 whereby and whereunder the said respondent has also dismissed the Revision petition of the petitioner on the ground that petiti- oner an being an adopted son of the deceased P.D.S. licency, he has no locus standi to preferred the revision.

iv). For Consequently, Commanding and directing the respondent no.7 the licensing authority to grant the PDS Licence in favour of the petitioner on Compassionate ground being the adopted son of the deceased PDS Licency.

v). For grant of any other relief or reliefs which the petitioner may be entitled to i-n the facts and Circumstances of the present case.”

3. It is the case of the petitioner that he was adopted by his paternal uncle long back. That during the lifetime of his adopted father, he was granted PDS license on 07.06.2016. Thereafter, the adopted father died on 16.03.2017 and the petitioner has applied to the authorities seeking to appoint him on compassionate ground. Learned counsel has stated that the



petitioner has relied on the will deed dated 10.06.2016 and also the gift deed 17.07.2012 to substantiate the factum of adoption. However, the authorities have dismissed the application of the petitioner on the ground that the will deed relied by the petitioner is not a registered one. Learned counsel has stated that there is no legal necessity for getting a will deed registered and the same can be executed on a plain paper as long as the other requirements are met. Therefore, learned counsel has prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authorities concerned for considering his application afresh.

4. *Per contra*, learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the authorities concerned duly taking into account the facts and circumstances of the case and also the fact that the will deed was not registered one, had rejected the application made by the petitioner. Moreover, learned counsel has stated that the gift deed does not anywhere state that the petitioner was adopted by the deceased PDS licensee, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the document more specifically the



will deed relied by the petitioner shows that will deed is not a registered will deed. Even though there is no legal necessity that a will deed needs to be a registered document. However, it has been held time and again that in case of any dispute the will deed needs to be probated by a competent civil Court having a jurisdiction to probate the same. Therefore, the present writ petition is disposed of granting liberty to the petitioner to get the will deed probated and thereafter, file an application before the appropriate authority seeking appointment on the ground of compassionate.

6. With the above direction, the present writ petition stands disposed of.

(A. Abhishek Reddy, J)

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